IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11-9-2007

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THE HONOURABLE MR.JUSTICE M.CHOCKALINGAM

W.P.Nos.6095 of 2006 and 11622 of 2007 (T)
and
WPMP No.182 of 2007 in WP No.6095 of 2006

M.Krishnappa .. Petitioner in both petitions

vs

1.The District Elementary Educational Officer
Krishnagiri, Krishnagiri District
2.The Assistant Elementary Educational Officer
Kelamangalam, Krishnagiri District
3.The Accountant General (A & E)
Tamil Nadu, Chennai 600 018. .. Respondents in WP 6095/2006

4.The Assistant Elementary Educational Officer
Kelamangalam, Dharmapuri District .. Respondent in WP 11622/2007(T)

W.P.No.6095/2006 filed under Article 226 of the Constitution of India praying to issue a writ of mandamus directing the respondents to pay all the retirement benefits due to the petitioner with interest for the belated payment from the date of his retirement namely 31.7.2004 till the date of payment.

W.P.No.11622/2007 filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus calling for the records of the respondent in Na.Ka.No.816/A1/2001 dated 10.9.2001 and quash the same and to direct the respondent to grant all the consequential benefits to the petitioner.

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For Petitioner : Mr.P.Rajendran

For Respondents : Mr.A.Vijayakumar
Government Advocate
for RR1 and 2 in
WP 6095/2006 and the
respondent in WP 11622/2007
Mr.V.L.Vijayshankar for R3

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COMMON ORDER

This order shall govern the above two writ petitions.

2.WP No.6095/2006 has been filed, whereby the petitioner seeks a writ of mandamus directing the respondents to pay all the retirement benefits due to the petitioner with interest for the belated payment from the date of the retirement namely 31.7.2004 till the date of payment, while WP No.11622/2007 has been taken on file by this Court pursuant to the transfer of O.A.No.1471 of 2002 from the file of the Tamil Nadu Administrative Tribunal, whereby the petitioner had challenged the punishment imposed on him.

3.The Court heard the learned Counsel on either side. The affidavits in support of the petitions are perused.

4.Concededly, the petitioner was working as Head Master in the Panchayat Union Elementary School, Zeebi, Kelamangalam, Dharmapuri District. While he was working so, there was an inspection by the Assistant Elementary Educational Officer, Kelamangalam, on 31.7.2001. At that time, the inspection report book was not available. In view of the non-availability of the said book, the second respondent, the Assistant Elementary Educational Officer, could not record any remarks therein. A memo was served upon the petitioner alleging that he was responsible for the non-availability of the book, and it was purposefully done. He gave a reply stating that the report book was taken by the Assistant Elementary Educational Officer, and hence, the remarks could not be made, and he was not responsible for the same. Following the enquiry, there was a punishment awarded namely stoppage of increment for one year, which he challenged before the Tamil Nadu Administrative Tribunal by way of O.A.No.1471 of 2002. While that matter was pending before the Tribunal, on his application before the Tribunal in O.A.No.466/2003, he was reinstated in service on 1.12.2003, and he was working there as Head Master. Then, on attaining superannuation, he retired from service on 31.7.2004. According to the petitioner, from that time onwards, though many a representation was made, the pensionary benefits were not given to him, and under the circumstances, he has brought forth WP No.6095/2006. The application which was pending before the Tamil Nadu Administrative Tribunal in O.A.No.1471/2002, was transferred to this Court and was also taken on file as WP No.11622 of 2007. Thus, these two writ petitions have arisen before this Court.

5.Advancing his arguments on behalf of the writ petitioner, the learned Counsel would submit that as far as the charges levelled against him, which ended in the awarding of punishment of one year stoppage of increment, was concerned, even the reading of the impugned order would clearly indicate that there was no finding recorded in that regard; but, the authority, who was not satisfied with the explanation, directly awarded the punishment; that though there was a punishment for stoppage of increment for one year, it does not say whether it is cumulative or not; that further, not even he was put on notice; that even the reading of the order would clearly indicate that it was nothing but a result of indication by the authority, and hence, it was to be set aside.

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6.Added further the learned Counsel that pursuant to the order of the Tamil Nadu Administrative Tribunal, he was actually reinstated on 1.12.2003; that he retired on 31.7.2004 on attaining superannuation; that under the circumstances, he was entitled to have all the pensionary benefits, but not given, without any reason or justification whatsoever, and hence, a direction has got to be given by issuance of a writ of mandamus.

7.The Court heard the learned Counsel for the respondents on the above contentions.

8.After careful consideration of the submissions made, this Court is of the considered opinion that the writ petitions have got to be ordered. It is not in controversy that the petitioner herein was working as Headmaster in the Elementary School referred to above, and there was an inspection by the higher Officer. The only allegation made against the petitioner, was that at that time, the inspection report book was not available. When a charge memo was served upon him, he gave a reply stating that it was actually taken by the higher Officer for making the remarks; but, it was not returned to him. Following the enquiry, he was found guilty. From the very order under challenge, it is quite clear that the reply that was given by the petitioner that the report book was taken by the higher-ups earlier, has led the Officer to become prejudiced and pass such an order under challenge. As rightly pointed out by the learned Counsel for the petitioner, the authority who passed the order, did not record a finding that the charges were proved against him. But, what are all found in the order, is only the contents of the charge and the reply, and there is not even a reason to arrive at such a conclusion. It can be well stated that neither a reason is found, nor a finding is noticed, and on that ground, the order of the respondent in WP No.11622/2007 has got to be quashed without any hesitation. Accordingly, it is quashed.

9.As far as WP No.6095/2006 wherein he seeks a writ of mandamus directing the respondents to give the pensionary benefits, is concerned, pending the O.A.No.1471/2002, he was actually reinstated in service from 1.12.2003. He also retired on 31.7.2004 on attaining superannuation. Once the Officer has been allowed to retire, there is no question of any impediment for giving the pensionary benefits and that too, in the instant case, where he was a Headmaster of a School. Even if the pendency of the O.A. challenging the order of stoppage of one year increment was the reason, now it is set aside. The Court can also make it clear that there is no reason for the respondents to cause further delay in making the payment of the pensionary benefits. The pensionary benefits must be given to the petitioner within a period of two months herefrom. Though the petitioner has asked for interest, no interest is ordered.

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10.In the result, WP No.6095/2006 is, accordingly, disposed of. WP No.11622/2007 is allowed. No costs. Consequently, connected WPMP is closed.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

nsv/

To:

1.The District Elementary Educational
Officer
Krishnagiri, Krishnagiri District

2.The Assistant Elementary Educational
Officer
Kelamangalam, Krishnagiri District

3.The Accountant General (A & E)
Tamil Nadu, Chennai 600 018.

1 CC To Mr.V.Vijayshankar, Advocate, SR NO.56589.
1 CC To Mr.P.Rajendran, Advocate, SR NO.56755.

WP Nos.6095 of 2006 and
11622 of 2007

KM(CO)
RVL 17.09.2007

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